

Message Text

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ORIGIN EB-07

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TAGS: EAIR, FR

SUBJECT: CIVAIR: CHARTER TALKS WITH BELGIUM

REF: BRUSSELS 9464

1. DEPARTMENT AND CAB AGREE WITH USDEL THAT PROPOSED NEW
PARAS 7 AND 4 OF ANNEXES 1 AND 2 ARE UNCLEAR WITH RESPECT
TO BELGIUM ORIGIN PART CHARTERS AND ARE OPEN THEREFORE TO
DIFFERING AND POTENTIALLY TROUBLESOME INTERPRETATION.

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THEIR EXPRESSED INTEREST IN PART CHARTERS STRONGLY SUGGESTS

THAT WITHOUT CLARIFICATION OF US VIEW ON SUBJECT, BELGIANS MIGHT SEEK TO USE MOU TO JUSTIFY CARRYING FILL-UP TRAFFIC ON SABENA SCHEDULED FLIGHTS UNDER COVER OF PART CHARTER RULE. CAB INDICATES IT COULD NOT ACCEPT THIS GIVEN PRESENT PRACTICAL AND POLICY CONSIDERATIONS OR IMPLICATIONS TO TOTAL US-BELGIUM CAPACITY. THEREFORE WE RUN RISK OF OBVIOUS DIFFICULTIES AND CONFRONTATION IN FUTURE IN SITUATION OF AMBIGUITY. CAB RECOMMENDS, AND DEPARTMENT IS INCLINED TO AGREE IN VIEW OF CAB POSITION, THAT CAB POSITION BE MADE CLEAR TO BELGIANS. (PARANTHETICALLY, USDEL MAY NOW BE IN POSITION TO ASSESS SITUATION, THERE

IS LIKLIHOOD ECAC OR OTHER INDIVIDUAL MEMBERS, WHO ARE MOTIVATED BY CONCERN WITH THEIR OWN SCHEDULED AIRLINES AND NOT WITH US CHARTER CARRIERS, WILL ALSO SEEK TO CARRY "CHARTER TRAFFIC" ON SCHEDULED SERVICES.

2. CONCERNING PARA 3 REFTTEL, USDEL CANNOT TELLBELGIANS MOU WILL PERMIT BELGIUM ORIGIN PART CHARTERS. IT SEEMS IMPRUDENT TO LEAVE THE QUESTION IN DOUBT, AND SAYING IT NEEDS FURTHER STUDY MAY RAISE BELGIAN HOPES AND ASPIRATIONS AND DELAY MOMENTUM. INITIALLY, WE SEE THREE POSSIBILITIES:

A. EXPLAIN TO BELGIANS AGAIN DIFFICULTIES US AUTHORITIES HAVE WITH CONCEPT OF PART CHARTER AND MAKE CLEAR THEIR INABILITY(UNTIL AND IF PERHAPS US SCHEDULED AIRLINES PERMITTED TO OPERATE US ORIGIN PART CHARTERS) TO AGREE THAT CHARTER UNDERSTANDING COULD BE USED TO PERMIT BELGIUM ORIGIN PART CHARTERS. (THIS COULD AT USDEL OPTION BE DONE IN MEMORANDUM OF CONSULTATIONS OR SIMPLY RECORDED IN MINUTES OF CONSULTATIONS.)

B. CONCLUDE THAT GIVEN DIFFICULTIES FROM US SIDE WITH RESPECT TO PART CHARTERS, EACH GOVERNMENT WOULD RESERVE RIGHT TO CHALLENGE WHETHER PARTICULAR TYPES OF SERVICE ARE IN FACT CHARTERS BEFORE SUCH SERVICES ARE INAUGURATED UNDER A NEW CHARTER RULE. (THIS CERTAINLY NEED NOT BE INCORPORATED INTO MOU ITSELF AND COULD BE RECORDED IN MEMORANDUM OF CONSULTATIONS AT USDEL'S DISCRETION LIMITED OFFICIAL USE

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OR SIMPLY BE LEFT AS MATTER OF RECORD IN MINUTES OF CONSULTATIONS.)

C. REWORK MOU TO INCLUDE LANGUAGE ESTABLISHING PROCEDURES FOR OBJECTION AND CONSULTATION ON NEW CHARTER RULES. OBVIOUSLY ANNEX PARAS 7 AND 4 WOULD BE LIMITED TO ACCEPTANCE OF CHARTER TRAFFIC WHICH COMPLY WITH PRESENT CHARTERWORTHINESS RULES.

3. ALTERNATIVE C STRIKES US AS POTENTIALLY TROUBLESOME, ALTHOUGH IT WOULD CLEARLY REMOVE UNCERTAINTY WITH RESPECT TO FUTURE BELGIAN INTENTIONS. IT SEEMS LIKELY THAT THE FURTHER WE DEPART FROM PROPOSED LANGUAGE AND FORMAT ALREADY ON THE TABLE, THE MORE PROTRACTED TALKS CAN BECOME AND THE MORE OPPORTUNITIES THERE CAN BE FOR POSSIBLE MISCHIEF. SOLUTION WOULD APPEAR LIE IN ALTERNATIVE A OR B OR COMBINATION OF THE TWO. WE APPRECIATE THAT ONLY AVAILABLE ALTERNATIVES RUN RISK OF QUEERING POSSIBLE BELGIAN DEAL. WE ALSO APPRECIATE THAT SUCH

ALTERNATIVES POSE POTENTIAL FUTURE DIFFICULTIES WITH RESPECT TO NEW US CHARTERWORTHINESS RULES. WOULD APPRECIATE EARLY INDICATION OF USDEL'S REACTION.

4. L/EB SUGGESTS THAT "APPLICABLE" BE SUBSTITUTED FOR "CURRENT OR FUTURE" IN DESCRIBING RULES OF BELGIUM AND US IN NEW ANNEX PARAS 7 AND 4 AND THAT WORDS "OR ACCORDING TO WAIVERS OF SUCH RULES GRANTED FOR EXCEPTIONAL REASONS" BE DELETED. INGERSOLL

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